

Ombudsman Public Report Action Plan

Leeds City Council and Indigo Care Services Limited (Mrs B and Mrs C Complaint)

	Outcome and/or Recommendations	Actions and/or Performance Measures	Timescale	Responsible Officer	Progress and Comments
1	The Council must consider the report and confirm within three months the action it has taken or proposes to take.	To write to the Ombudsman with copy Action Plan “need confirmation that the requirements of Section 31(2) have been met, so please let us know by 5 September 2022 when your Council will consider the report and when we may expect to receive a response”	By 5 th of September to write to the Ombudsman to inform them when Executive Board will consider the report, including evidence of the Public Notice	Head of Complaints	
2	The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (<i>Local Government Act 1974, section 31(2), as amended</i>)	Draft Executive Board Report	By 23 rd August 2022 Report to Bobby Gill by 23/8	The Director and Deputy Director	The report has been drafted and is in the process of being shared with relevant personnel for clearance
3	The Council should provide an apology to Mrs B accepting the findings of this investigation;	Write apology letter to Mrs B in response to the Public Report	ASAP		
4	The Council should pay Mrs B £300 to recognise her distress, time and trouble – this is made up of £50 to recognise the time and trouble Mrs B was put to in having to arrange Mrs C’s repeat	The Senior Finance Manager, has drafted a cover apology letter with a breakdown of the amounts owed to Mrs B	ASAP	Senior Finance Manager	The Senior Finance Manager has drafted a letter to go to Mrs B asking for her bank details so that the remedies recommended by the Ombudsman can be transferred into her bank

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	medication; £50 to reflect her distress at Mrs C's appearance on the date of her visit in September 2020 and £200 to recognise the distress caused by the faults around charging in this case;				account. This will be sent as soon as the embargo is lifted
5	<p>The Council should pay £200 to Mrs C's estate for her lost clothing (unless Mrs B can provide any receipts to show a greater value);</p> <p>In carrying out the recommendations at paragraph 92 of the Final Report (4,5 and 6 of this Action Plan) the Council can liaise with the Care Provider to decide if the Care Provider should contribute to the cost of those actions. But as the Council was responsible for Mrs C's care at the time any injustice arose, such liaison must not delay any remedy for Mrs B, for which the Council is ultimately responsible to provide. This is because when a council commissions another organisation to provide</p>	The Senior Finance Manager, has already actioned this as recommended by the Ombudsman. The total financial remedies will be offset against the total owed to the Council	ASAP	Senior Finance Manager	The Senior Finance Manager has already actioned this. A letter will be sent to Mrs B with a breakdown of the amounts to be offset against the amount owed to the Council. The letter will be sent as soon as the embargo is lifted.

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	services on its behalf it remains responsible for those services and for the actions of the organisation providing them.				
6	<p>The Council should pay a refund to Mrs C's estate of £173 a week for the time Mrs C entered the care home until 8 November 2020 less the nine weeks when this charge was not made (this is the difference between £796 and £623 a week).</p> <p>The payments to Mrs C's estate set out in paragraphs 92 and 93 of the Final Report can be offset against the outstanding invoice for her care charges issued in August 2021. The Council should re-issue the invoice once those adjustments have been made.</p>	The Senior Finance Manager, has already actioned this as recommended by the Ombudsman. The total financial remedies will be offset against the total owed to the Council	ASAP	The Senior Finance Manager	The Senior Finance Manager has already actioned this. A letter will be sent to Mrs B with a breakdown of the amounts to be offset against the amount owed to the Council. The letter will be sent as soon as the embargo is lifted.
7	The Council should review its current practice of financial assessment to see if there is scope to avoid delays for those whom it places in residential care	To review the current practice of financial assessments to see if there is scope to avoid delays	ASAP	Finance	We take on board the ombudsman's reasonable assessment of our processes and have sought to find any

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	<p>in an emergency. We note here the statutory guidance envisages financial assessments will usually be carried out at the same time as an assessment of need. The guidance recognises this will not always be possible in an emergency. So, the Council will always be funding care for some individuals at a full-cost (or potential full cost) basis who are later confirmed as self-funders following a financial assessment. However, it is inherently unsatisfactory if this situation pertains for longer than necessary as it creates uncertainty for Council, care provider and the user of services alike. Therefore any delay in financial assessment, while sometimes unavoidable, should be avoided if possible.</p>				<p>manoeuvrability to address concerns.</p> <p>Factors beyond our control such as covid, and families not being able to obtain records will often result in lengthy delays in financial assessments being completed. This particular case was at the height of the pandemic – which we believe has added additional time to the general process.</p> <p>In a bid to speed up the process of gathering information in relation to an individual’s financial affairs, LCC are Lobbying DofHSC to provide us with data e.g., pensions and benefits – which would potentially lead us to completion within 48 hours in many cases. This issue is being raised at the highest levels given the care reforms (Cabinet Office). However, HMRC are hesitant in this regard. LCC will continue to provide business justification</p>

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					<p>to assist in expeditious financial assessments which directly benefit the customer, taxpayer, and overall customer experience regarding accessing care and support.</p> <p>A timeline is enclosed with regard to the financial assessment in this case in addition to our process for financial assessment in general. Hopefully this will provide assurances regarding the rigour with which these are conducted.</p>
8	<p>The Council should end the practice of allowing care providers to enter contracts with clients (or their relatives) to make additional charges for care that run concurrently to contracts the Council has entered with the same care provider to provide the clients' care at a lower cost.</p> <p>The client should only be exposed to the self-funding rate of care</p>	<p>The Council's response to the Ombudsman included the following:- <i>The Council accepts that the current practice can be confusing and difficult to understand as evidenced by Mrs B's experience. In response to the Ombudsman's findings and recommendations, the Council has decided to amend its current arrangements. In the</i></p>	ASAP	Legal Services, Commissioning, Finance and Complaints	<p>An initial meeting has been arranged taking place on 23rd August to discuss this. Legal Services, Commissioning, Finance and Complaints</p>

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	<p>where the Council is arranging care if the Council itself agrees to fund care at that rate or at the point the Council contract ends.</p>	<p><i>absence of a financial assessment upon a person's admission to a care home, the new approach will be the Council paying the care provider a local authority rate until the financial assessment is completed. It will be made clear to care providers that, on placement, they must advise service users and/or their families what the self funder rate is albeit not via contract. The care providers must also inform service users and/or their families that the self funder rate will not be applied until after the financial assessment has been concluded and that this will not be backdated to the start of the placement. The self funder rate, therefore, starts at the point of confirmation through the outcome of the financial assessment. The Council accepts that the current practice can be confusing and difficult to understand as evidenced by Mrs B's experience.</i></p>			

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		<i>In view of this, the Council will simplify the contractual arrangements by introducing a single Contract with 3 parties (The Council, the Client and the Care Provider)</i>			
8.1		The Council to meet with Leeds Care Homes Association to communicate the change to all providers that they cannot charge self-funding rates retrospectively. To agree a start date and for this to be confirmed in writing to all the providers	ASAP	Head of Commissioning	
8.2		Template changes to letters and emails to effect the changes	ASAP	Senior Finance Manager	
8.3		Training of staff involved in financial assessments and debt recovery	ASAP	Senior Finance Manager	
9	The Care Provider should provide an apology to Mrs B accepting the findings of this investigation	<i>The Care Provider confirmed in an email to the Council of 27 April 2022 that it accepted the Ombudsman's investigation findings and recommendations and will</i>	ASAP	The Head of Complaints A&H to liaise with the Care Provider to ensure that this has been done	The Head of Complaints A&H has already been in liaison with the Director of Quality and Care, Orchard Care Homes They will share their draft Action Plan

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		<i>reiterate apologies previously provided to Mrs B.</i>		post publication of the Public Report	
10	The Care Provider should pay Mrs B £300 for her distress and inconvenience;	<i>The Care Provider has informed the Council that it accepts the findings and recommendations and that they will pay the recommended remedies to Mrs B.</i>	ASAP	The Head of Complaints A&H to liaise with the Care Provider to ensure that this has been done	The Head of Complaints A&H has already been in liaison with the Director of Quality and Care, Orchard Care Homes They will share their draft Action Plan
11	The Care Provider should ensure Mrs C's estate receives a payment of £100 for the loss of her possessions on moving;	<i>The Care Provider has informed the Council that it accepts the recommendation and payment will be made to Mrs C's Estate.</i>	ASAP	The Head of Complaints A&H to liaise with the Care Provider to ensure that this is done	The Head of Complaints A&H has already been in liaison with the Director of Quality and Care, Orchard Care Homes They will share their draft Action Plan
12	The Care Provider should ensure Mrs C's estate receives a refund of a minimum £33 a week for each week after 8 November 2020 for which the Care Provider charged for her care (the difference between £796 and £763 a week).		ASAS	Head of Complaints A&H to liaise with the Care Provider to ensure that this is done	Head of Complaints A&H has already been in liaison with the Director of Quality and Care, Orchard Care Homes They will share their draft Action Plan

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13	<p>The Care Provider should Review its standard terms and conditions to insert a clause that where it charges fees in lieu of a resident giving notice, those fees will be reduced in the event it re-lets the resident's room within the period of that notice.</p>	<p><i>The Council has been advised by the Care Provider that Mrs C was not charged for the notice period. The Council understands that the Care Provider has already informed the Ombudsman who will now amend the draft report.</i></p> <p><i>Terms and Conditions to be updated to insert a clause that where it charges fees in lieu of a resident giving notice, those fees will be reduced in the event it re-lets the resident's room within the period of that notice</i></p>	ASAP	The Head of Complaints A&H to liaise with the Care Provider regarding the evidence that the terms and conditions have been updated to insert a clause that where it charges fees in lieu of a resident giving notice, those fees will be reduced in the event it re-lets the resident's room within the period of that notice	The Head of Complaints A&H has already been in liaison with the Director of Quality and Care, Orchard Care Homes They will share their draft Action Plan
14	<p>The Care Provider should also review its standard terms and conditions to remove or revise that clause that refers to a shortfall between the rate paid by the local authority and the Care</p>	To review Terms and Conditions as recommended by the Ombudsman	ASAP		The Head of Complaints A&H has already been in liaison with the Director of Quality and Care, Orchard Care Homes They will share their draft Action Plan

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	Provider's 'full amount of charges'. While it is contracting with a local authority for care, the Care Provider cannot expect a user of its services to pay more for that care than it charges the local authority.				
15	<p>Public Notices: The Ombudsman requires the Council to put a notice in 2 local newspapers advising the public of the report ad where they can get copies.</p> <p>The Council is also required to show the Ombudsman proof of the Public Notice</p>	To send the Public Notice information to the Publishers for the Public Notice to appear on the day the report is published		Head of Complaints	The Public Notice has been drafted and shared with the Publishers. The proof of the Notice has been sent to the Council and costs provided. Z order will be raised by the due date Arrangements in place for the Public Notice to appear in the Yorkshire Post and Yorkshire Evening Post on the day the report is published by the Ombudsman
16	<p>Copies of the report: The requirement is for copies of the report to be available for members of public view the report or ask for a copy of the report. The reports to be made available for 3 weeks from the date of publication of the report</p>	Arrangements will be made for copies of the report to be available at the Civic Hall and Merrion House reception.		Head of Complaints	Copies of the report will be available at the Civic Hall and Merrion House receptions. Electronic copies can be requested by emailing the Adults and Health Complaints Team at complaints.socs@leeds.gov.uk

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Appendix 1. Additional information to address action point 7:

Financial Timeline for this case:

Customer financial assessment timeline

1. 19/06/2020 - Individual was placed on as an emergency.
2. Before undertaking a financial assessment, the Council needed to verify that a validated Lasting Power of Attorney for Property & Financial Affairs (LPA) was in place.
3. 29/06/2020 The LPA validated document was duly provided.
4. Support planning and budget approval processes were being undertaken during the height of the **coronavirus pandemic**, so took longer than usual.
5. 24/07/2020 - Once approval was given, a light touch financial assessment was undertaken.
6. 03/08/2020 – Letter issued to LPA for financial evidence required for a full financial assessment. Three weeks deadline given to supply the evidence.
7. 14/09/2020 – LPA provides the financial evidence requested.
8. 12/10/2020 – Email issued to LPA for further financial evidence not provided previously but required to complete the full financial assessment.
9. 13/10/2020 – Financial assessment completed for temporary placement.
10. 26/10/2020 – Financial assessment completed for permanent placement.

Total time taken to receive LPA validated document 1 week, 3 days (19/06/2020 – 29/06/2020)

Total time for budget and support plan approvals process 3 weeks, 5 days (29/06/2020 to 24/07/2020) – (height of pandemic)

Total time taken between approvals process concluding and light touch financial assessment was 0 days (24/07/2020)

Total time between light touch financial assessment and writing to LPA for financial evidence 1 week, 4 days (24/07/2020 to 03/08/2020)

Total time for evidence to be provided by LPA for a full financial assessment 6 weeks, 1 day (03/08/2020 to 14/09/2020)

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Total time between receiving evidence and receiving further evidence required to complete a full financial assessment 4 weeks, 1 day (14/09/2020 to 12/10/2020)

Total time for full financial assessment to be completed from emergency placement date was 16 weeks and 5 days. (19/06/2020 to 13/10/2020)
Of the 16 weeks, 5 days' timeline, 12 weeks were spent waiting for financial information / Legal Power of Attorney evidence from LPA.
Therefore, in the remaining 4 weeks, the financial assessment actually took 4 weeks.

During the height of the pandemic, timescales did slip a little because we gave family members / client representative longer to gather the required financial evidence (this was the time when people could not visit their relatives unless they were in a bubble etc.) but the normal time frames we work to currently are:

1. Client / representative given 3 weeks to provide all financial evidence (assuming there is a financial representative such as an LPA or deputy in place).
2. If returned and no queries are necessary, the financial assessment is completed at week 4 or earlier if financial evidence is received sooner.
3. Where a client or their representative deliberately delays in complying with the financial assessment process, or where fraud or financial exploitation is discovered, these cases will take longer to assess through no fault of the Local Authority.